ond question then simply is whether, conceding the evidence was admissible to impugn the witness' credit, it was rendered inadmissible because it was apt to be prejudicial to D. It is unquestionably the rule that evidence of the bad character of the defendant is inadmissible, except to rebut evidence of good character introduced by him, unless the defendant has testified in his own behalf, which would subject him to the same impeachment as any other witness. See GREENLEAF, EV., 14b; 1 WIGMORE, EV., 57, 58; 1 JONES, EV., 148a. In the instant case, D. introduced no evidence of his good character, nor did he testify in his own behalf, so that the scope of that rule could not justify its admission; and it seems that it was on this theory that the instant case was decided. The court apparently disregarded the rule, equally well established, that evidence inadmissible for one purpose will not be thereby rendered inadmissible for another purpose. See 1 WIGMORE, EV., 13; 1 JONES, EV., 173, p. 895.

CRIMINAL LAW—PRESUMPTIONS—CHARACTER OF DEFENDANT.—Where trial court refuse to instruct the jury that the defendant was presumed to be a person of good character and that the supposed presumption should be considered as evidence in favor of the accused, *Held,* such refusal proper. *Greer* v. *United States,* 38 Sup. Ct. 209.

This judgment upholds a carefully reasoned decision in *Price* v. *United States,* 218 Fed. 149, and numerous state cases and text-books; but as another Circuit Court of Appeal had taken a different view, *Mullen* v. *United States,* 106 Fed. 892, also taken by other cases and text-books it became necessary for the Supreme Court to settle this doubt. The Supreme Court was of the opinion that their's was the only reasonable view since a presumption upon a matter of fact, when it is not merely a disguise for some other principle, means that common experience shows the fact to be so generally true that courts may notice the truth. Whatever the scope of the presumption that a man is innocent of the specific crime charged, it cannot be said that by common experience the character of most people indicted by a grand jury is good. For authorities and clear discussion of principles involved see 13 MICH. L. REV. 504.

MASTER AND SERVANT—INJURY TO THIRD PERSON—THE RELATION—HIRING CHAUFFEUR.—Defendant (for a fixed amount) hired of a company, for his use, for a period of 3 months, an automobile with a chauffeur, all orders to be taken from the defendant. While the defendant was riding in the automobile, it struck and killed plaintiff's intestate, as a result of the negligence of the chauffeur. *Held,* that the chauffeur had become *pro hac vice* the defendant's servant, making defendant liable for the negligent driving. *McNamara* v. *Leipzig,* (App. Div., 1917), 167 N. Y. S. 981.

The first reported case involving the point involved in the instant case was *Laugher* v. *Pointer,* 5 B. & C. 547, where the owner of a carriage hired of a stable-keeper a pair of horses to draw the carriage for a day, and the owner of the horses provided a driver, through whose negligence an injury was done to a horse belonging to a third person; and the four members of

the Court of King's Bench were evenly divided on the question of the liability of the carriage owner to be sued for such injury. The next case involving the point was *Quarman* v. *Burnett,* 6 M. & W. 498, where the owners of a carriage were accustomed to hire, from a stable-keeper, horses, for a day or drive; and the owner of the horses provided a driver. The same driver was always furnished, and the owners of the carriage had a suit of livery made for him, which he wore while driving for them. The driver's regular wages came from the stable-keeper. A third party was injured by the driver's negligence, and it was held that the owners of the carriage were not liable to be sued for such injury. This decision has been recognized and followed in England. *Rapson* v. *Cubitt,* 9 M. & W. 711; *Milligan* v. *Wedge,* 12 Ad. & E. 737; *Hobbit* v. *London & N. W. Ry. Co.,* 4 Welsby, H. & G., 254; *Jones* v. *Mayor of Liverpool,* 14 Q. B. D. 890. The doctrine of the English courts has been generally approved and followed by the courts of the United States. *Huff* v. *Ford,* 126 Mass. 24; *Driscoll* v. *Towle,* 181 Mass. 416; *Ash* v. *Century Lumber Co.,* 153 Ia. 523 (containing a thorough discussion of the cases); *Frerker* v. *Nicholson,* 41 Colo. 12; *Joslin* v. *Grand Rapids Ice Co.,* 50 Mich. 516; *Higham* v. *Waterman Co.,* 32 R. I. 578; *Morris* v. *Trudo,* 83 Vt. 44; *Little* v. *Hackett,* 116 U. S. 366; *Standard Oil Co.* v. *Anderson,* 212 U. S. 215. The New York courts appear to have had some difficulty in determining the questions raised by this class of cases, but seem to have concluded to draw a line of distinction between those cases in which the employee is exclusively at the service of the hirer, and those cases in which the employee is at the service of others as well as that of the hirer; making the hirer liable, as his master, in the former class, and the general employer in the latter. *Lewis* v. *Long Island R. R. Co.,* 162 N. Y. 52; *Kellogg* v. *Church Charity Foundation,* 203 N. Y. 191; *Schmedes* v. *Deffaa,* 214 N. Y. 675 (reversing 153 App. Div. 819); *Hartell* v. *Simonson,* 218 N. Y. 345. The court in the instant case divided three to two. There is no dispute as to the proper test to be applied, which, all courts agree, is: whose work is being done, and who, during the course of the work, has or exercises control of the doing of the work. The conflict comes in the attempts to apply the test. The majority in the instant case held that it was the defendant's work that was being done, and that he had control of the doing of it; while the minority was of the opinion that it was the general employer's work that was being done, and that it had control of the doing of it.

PARENT AND CHILD—INJURY FROM ACT OF CHILD—NEGLIGENCE OF PARENT FOR JURY.—The defendant, owner of a gun for which he no longer had any use, broke the stock, leaving however the operative parts intact, and threw it under his bed, intending to conceal it there, from his children. The gun was found by his son, a boy of about thirteen years, who knew of his father's possession of the gun, but who had never been given any instruction as to the danger of its use, and who was ignorant of the fact that it was still loaded. The son repaired the gun stock and in play shot the plaintiff, who brings suit by his father as next friend for injuries sustained thereby against the defendant. *Held,* under facts of above case whether defendant was neg-